

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on May 14, 2007, and the references cited therewith.

Claim 1 is amended, and claims 1-9 are now pending in this Application, of which claims 1, 4, and 9 are independent.

Claim 1 has been amended to recite that the “network” is a “packet network.”

§ 103 REJECTIONS

Claims 1, 2, 4-5, and 9 were rejected under 35 U.S.C. § 103 as being unpatentable based on Suzuki et al., U.S. Patent No. 5,493,610, in view of Yletyinen (“*The Quality of Voice Over IP*,” 1998, non-patent literature). Applicant respectfully submits that the prima facie case of obviousness has not been met because these references do not disclose all of the elements of these claims, and are not properly combinable.

Claim 1 recites, in part, “A device, said device being a gateway and being configured to establish an interface for transmitting data to and receiving data from a packet network,” and “a detecting unit configured to detect a load upon said packet network” (emphasis added). Claims 4 and 9, as presented before the May 14, 2007 Office Action, recited a “packet network.” claim 4 recited “transmitting data to and receiving data from a packet network,” and “detecting a load on the packet network,” and claim 9 recited “transmitting data to and receiving data from a packet network,” and “means for detecting a load on said packet network.” The Office Action dated May 14, 2007, asserted that Suzuki disclosed “means for determining a load status of a transmission circuit,” but provided no showing that Suzuki disclosed any functions performed on a “packet network.”

Indeed, Suzuki, which is entitled “Circuit Multiple Transmission System,” discloses a circuit transmission system: “[i]n a circuit multiplex transmission system” (Abstract), “[t]his invention relates to a circuit multiple transmission system” (Field of the Invention), “[i]t is therefore an object of this invention to provide a circuit multiple transmission system” (Summary of the Invention). Suzuki does not disclose, and is completely inapplicable to, a “packet network.” Therefore, Suzuki does not disclose “transmitting data to and receiving data from a packet network” or “a detecting unit configured to detect a load upon said packet network,” as recited in claim 1, “transmitting data to and receiving data from a packet network” or “detecting a load on the packet network,” as recited in claim 4, or “transmitting data to and receiving data from a packet network” or “means for detecting a load on said packet network,” as recited in claim 9.

Claim 1 further recites, “wherein said control unit is configured to provide said codec with a higher priority than the modem,” and claims 4 and 9 recite, “said codec is provided with a higher priority than the modem,” after reciting that the codec is for encoding and decoding

speech data, and the modem is for modulating and demodulating non-speech data. The Office Action dated May 14, 2007, asserted that § 3.3.2, page 42 of Yletyinen, discloses a VoIP gateway wherein audio data rates receive priority over the rates for other types of data. However, the last sentence of the first paragraph of this section of Yletyinen states that “The media degradation order is: video, data, audio, control.” This degradation order places audio behind both video and data, and therefore does not disclose providing a codec with a higher priority than a modem, as recited by claims 1, 4, and 9.

In addition to Suzuki and Yletyinen’s failure to disclose all the elements of claims 1, 4, or 9, these references are not properly combinable because they utilize different networking technologies. Suzuki utilizes a circuit transmission system, as discussed above. Yletyinen, in contrast, examines issues related to a packet network: “[t]his thesis examines the quality issues related to the transmission of voice over packet networks using the Internet Protocol (IP).” Abstract, page iii. Therefore, Suzuki and Yletyinen are not properly combinable.

Applicant respectfully requests that the rejections of independent claims 1, 4, and 9 be withdrawn due to the improper combination of Suzuki and Yletyinen, and due to their failure, either individually or in combination, to disclose all of the elements of claims 1, 4, and 9. Applicant further requests that the rejections of claims 2 and 5 be withdrawn due to their dependence on allowable independent claims.

Dependent claims 3 and 6-8 were rejected under 35 U.S.C. § 103 in further view of Chang et al., U.S. Patent No. 5,367,523. Applicant respectfully requests that the rejections of these claims be withdrawn due to their dependence on allowable independent claims.

CONCLUSION

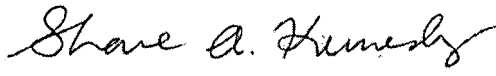
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (208-286-1013) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3521

Respectfully submitted,

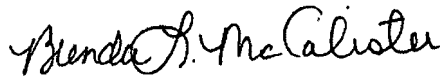
Brake Hughes Bellermann LLP
Customer Number: 53666
208-286-1013

Date August 14, 2007

By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 14th day of August, 2007.

Brenda L. McCalister
Name


Signature